



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,138	12/19/2001	John S. Gage	8009-10	5057

22150 7590 01/26/2006
F. CHAU & ASSOCIATES, LLC
130 WOODBURY ROAD
WOODBURY, NY 11797

EXAMINER

LE, LINH GIANG

ART UNIT PAPER NUMBER

3626

DATE MAILED: 01/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/026,138	GAGE, JOHN S.	
	Examiner	Art Unit	
	Linh-Giang Le	3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Notice to Applicant

1. The communication is in response to the application filed 19 December 2001.

Claims 1-22 are pending.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3-4, and 6-21 are rejected under 35 U.S.C. 102(b) as being rejected by Clark (5,974,389)
4. As per claim 1, Clark teaches a method for making an entry to an electronic medical record (Clark; Col. 5, line 64 to Col. 6 line 3). The method comprises the steps of:
 - Associating the medical record with a patient, wherein the medical record is managed by an administrator (Clark; Col. 3, lines 41-60);
 - Providing access to a portion of the medical record (Clark; Col. 2 lines 41-48);

Receiving an entry at a server serving the medical record on a network of processors (Clark; Col. 5, lines 30-35), wherein the medical record includes at least one folder storing the entry (Clark; Col. 6, lines 60-64); and

Storing the entry in a folder according to a header of the entry (Clark; Col. 6, lines 53-59).

5. As per claim 3, Clark teaches the entry is provided by a user, wherein the user is one of a business and an organization (Clark; Col. 5, lines 36-39).

6. As per claim 4, Clark teaches the entry provided by a processor on the network (Clark; Figure 1 and Col. 5, lines 30-35).

7. As per claim 6, Clark teaches the step of providing limited access and usage to a user according to a user's current identity (Clark; Col. 7, lines 26-27).

8. As per claim 7, Clark teaches the step of providing limited access and usage to a user according to a user's scope of employment (Clark; Col. 7, lines 42-61).

9. As per claim 8, Clark teaches the step of providing limited access and usage to a user according to a user's demographic profile (Clark; Col. 7, lines 42-61).

Art Unit: 3626

10. As per claim 9, Clark teaches the step of providing limited access and usage to a user according to a user's business character (Clark; Col. 7, lines 42-61).

11. As per claim 10, Clark teaches the step of providing limited access and usage to a user according to a user's group membership (Clark; Col. 7, lines 42-61).

12. As per claim 11, Clark teaches the step of providing limited access and usage to a user according to a user's security clearance (Clark; Col. 7, lines 42-61).

13. As per claim 12, Clark teaches the entry received at the server is encrypted by a sender (Clark; Col. 4, lines 36- 53).

14. As per claim 13, Clark teaches the entry received at the server is digitally signed (Clark; Col. 6, line 64 to col. 7, line 8).

15. As per claim 14, Clark teaches a program storage device readable by machine, tangibly embodying a program of instructions executable by the machine to perform method steps for making an entry to an electronic medical record (Clark; Summary of the Invention). The method steps recited repeat the same limitations as Claim 1 and the reasons for rejection are incorporated herein.

Art Unit: 3626

16. As per claim 15, Clark teaches a portable medical record (Clark; Abstract). The system comprising:

A plurality of processors connected by a network to database including a medical record (Clark; Figure 1 and Col. 5, lines 30-35);

A plurality of folders for storing a message in the medical record (Clark; Col. 6 lines 53-64);

A means for controlling access to each of the folders (Clark; Col. 7, lines 15 –23);
and

A means for sorting the message into at least one folder (Clark; Col. 7, lines 15-19).

17. As per claim 16, Clark teaches the message can be one of a plain text message, a digital image, an audio file, and a multimedia file (Clark; Col. 4, lines 10-35).

18. As per claim 17, Clark teaches the message includes one or more attachments (Clark; Col. 4, line 30-34).

19. As per claim 18, Clark teaches a message attachment can be one of plain text message, a digital image, an audio file, and a multimedia file (Clark; Col. 4, lines 10-35).

20. As per claim 19, Clark teaches a means for controlling access further comprising:

A data encryption module for encryption communications across the network
(Col. 5, lines 1-35); and

A digital signature module (Clark; Col. 6, line 64 to col. 7, line 8 and Col. 7, lines 15-19).

21. As per claim 20, Clark teaches a graphical user interface system supporting a medical record (Clark; Col. 8, lines 11-16). The system comprising:

A menu generator for generating (Clark; Col. 8, lines 11-16):

At least one menu permitting User browsing at least one folder of a medical record (Clark; Col. 8, lines 11-16); and

A menu permitting User entries to the medical record, wherein each entry is automatically filed into at least one desired folder of the medical record (Clark; Col. 6, lines 39-43 and Col. 6, lines 53-64).

22. As per claim 21, Clark teaches the graphical user interface further comprises a means for accessing a multimedia file including a portion of an entry to the medial record (Clark; Col. 5, lines 30-34).

Claim Rejections - 35 USC § 103

23. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3626

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

24. Claims 2, 5 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clark (5,974,389) in view of Edelson (5,737,539).

25. As per claim 2, Clark teaches the entry is provided by a user, wherein the user is one of a provider (Clark; Col. 6, lines 11-13). Clark does not expressly teach the user is a patient. However, this is well known in the art as evidenced by Edelson. In particular, Edelson teaches that access control measures will be available for patients of the system. (Edelson; Col 17, lines 23-26). It would have been obvious to one of ordinary skill in the art to include the feature of a patient as a user the system described in Edelson with the motivation of preventing unauthorized use of personal information (Edelson; Col. 17, lines 7-9).

26. As per claim 5, Clark fails to expressly teach the step of providing access further comprising the step of providing patient consent. However, this is well known in the art as evidenced by Edelson. In particular, Edelson teaches patient-directed control of their own data (Edelson; Col. 17, lines 56-62). It would have been obvious to one of ordinary skill in the art to include the feature of patient consent of the system described in Edelson with the motivation of preventing unauthorized use of personal information (Edelson; Col. 17, lines 7-9).

27. As per claim 22, Clark fails to expressly teach a graphical user interface wherein the multimedia file is comprised of multipurpose Internet mail extensions. However, this is well known in the art as evidenced by Edelson. In particular, Edelson teaches the host computer facility maintaining complete program files for the system along with e-mail services (Edelson; Col.46, lines 11-17). It would have been an obvious modification of the system taught by Clark to include multipurpose Internet mail extensions with the motivation of reaching out nationally, internationally, or across the Internet to multiple remote databases (Edelson; Col. 47, lines 1-7).

Conclusion


28. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not applied prior art teaches a remote access medical image exchange system and methods of operation therefor (6,006,191); an electronic medical records system (5,924,074); and an electronic medical record using text database (5,832,450).

29. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle Linh-Giang Le whose telephone number is 571-272-8207. The examiner can normally be reached on 8 AM - 5PM, M-F.

Art Unit: 3626

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


LLe


JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER